

AGENDA MEMO

CITY COUNCIL MEETING DATE: JUNE 20, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: VAR-21724 - APPLICANT: NEVADA POWER COMPANY -
OWNER: CHARLES AND VIRGINIA GORMLEY**

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (5-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. Conformance to the Conditions of Approval for Variance (VAR-21632), Vacation (VAC-20284) and Site Development Plan Review (SDR-20282), shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is for a Variance to allow a 15-foot screen wall where an eight-foot wall is the maximum allowed for a Proposed Electric Utility Substation at 7175 West Charleston Boulevard. A related Site Development Plan Review (SDR-20282) will be considered concurrently, as well as a Vacation (VAC-20284) of a patent easement. A Parcel Map (PMP-17750) has been submitted to divide the existing parcel ten feet south of the existing structure for a proposed Electric Utility Substation and a Variance (VAR-21632) for a 10-foot rear yard setback where 20 feet is the minimum required for an existing commercial building north of the proposed substation.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
02/23/89	The Board of Zoning Adjustment approved a Variance (V-0163-88) to allow an office and storage addition to an existing restaurant with 98 spaces where the use requires 209 spaces on a larger parcel which includes the subject site.
1/26/98	The City Council approved a request to amend the General Plan (GPA-0065-97) on property located at 7185 W. Charleston Boulevard from ML (Medium-Low Density Residential) to SC (Service Commercial) which included the subject site. The Planning Commission recommended approval of the General Plan Amendment on 12/18/97.
1/26/98	The City Council approved a request for a Rezoning (Z-0121-97) on property located at 7185 W. Charleston Boulevard from U (Undeveloped) Zone [ML (Medium-Low Density Residential) General Plan Designation] and C-1 (Limited Commercial) Zone [SC (Service Commercial) General Plan Designation] to C-1 (Limited Commercial) Zone. The Planning Commission recommended approval of the proposed Rezoning on 12/18/97.
11/07/02	The Planning Commission recommended approval of a Site Development Plan Review (SDR-1014) This application is a request for a Site Development Plan Review and a reduction of the on-site perimeter landscaping requirements for a proposed restaurant on a 4.9 acre parcel at 7185 West Charleston Boulevard that includes the subject site. Staff recommended approval.
11/30/06	A Parcel Map (PMP-17750) was administratively denied by the Planning and Development Department, and will be reconsidered once the specified conditions are addressed. Blue line was reaccepted for processing on 04/23/07.

04/26/07	The Planning Commission held in abeyance a related Site Development Plan Review (SDR-20282) for an Electric Utility Substation and a Vacation (VAC-20284) of a patent easement until the May 24, 2007 meeting.
05/24/07	The Planning Commission recommended approval of companion items VAR-21632, SDR-20282 and VAC-20284 concurrently with this application. The Planning Commission voted 5-0 to recommend APPROVAL (PC Agenda Item #41/rl).

<i>Related Building Permits/Business Licenses</i>	
04/02/86	Application first filed for a Business License (R09-0025-6-030783) for Restaurant - Seating 45 or more for The Hush Puppy Restaurant adjacent north of the subject site.
01/24/91	Active Business License (F09-00018-3-095215) first issued for Food Wholesale & Delivery to Scotties Food north of the proposed subject site.
02/06/90	Active Business License (L16-00207-4-000691) first issued for a Tavern to The Hush Puppy north of the proposed Substation.
07/19/91	Active Business Licenses (G01-01455-4-000530) for Gaming Restricted and (C20-01455-7-000530) for Convention Hall Gaming Tax first issued to The Hush Puppy adjacent to the subject site.
04/11/05	Building Permits issued for a drive thru and pole sign for the expansion of the Hush Puppy Restaurant north of the subject site.

<i>Pre-Application Meeting</i>	
11/07/06	A pre-application meeting was held to discuss the proposed electric substation. The discussion focused largely on on-site and off-site improvements, necessary street improvements and access agreements.
02/20/07	A follow-up meeting was held in order to further discuss progress on the required street improvements and site access issues.
<i>Neighborhood Meeting</i>	
11/16/06	A neighborhood meeting was held by the applicant; however no members of the public attended.

<i>Field Check</i>	
03/22/07	A field check was conducted in order to ascertain site conditions as they pertain to the proposed Electric Utility Substation and related Vacation.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	2.16

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped, Proposed Electric Substation	SC (Service Commercial)	C-1 (Limited Commercial)
North	Restaurant, Tavern, Retail, Office	SC (Service Commercial)	C-1 (Limited Commercial)
South	Undeveloped	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Apartments	M (Medium Density Residential)	C-1 (Limited Commercial)
West	Office	SC (Service Commercial)	R-PD19 (Residential Planned Development – 19 Units Per Acre)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	NA
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	NA
Trails		X	NA
Rural Preservation Overlay District		X	NA
Development Impact Notification Assessment		X	NA
Project of Regional Significance		X	NA

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following Development Standards Apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	NA	126,000 SF	Y
Min. Lot Width	100 Feet	300 Feet	Y
Min. Setbacks			
• Front	20 Feet	21.7 Feet	Y
• Side	10 Feet	49.4 Feet	Y
• Rear	20 Feet	36 Feet	Y

Pursuant to Title 19.12, the following Landscaping Standards Apply:

<i>Landscaping and Open Space Standards</i>				
<i>Standards</i>	<i>Required</i>		<i>Provided</i>	<i>Compliance</i>
	<i>Ratio</i>	<i>Trees</i>		
Buffer:				
Min. Trees				
North	1 Tree/30 Linear Feet	11 Trees	11 Trees	Y
South	1 Tree/20 Linear Feet	17 Trees	17 Trees	Y
Driveway	1 Tree/20 Linear Feet	17 Trees	19 Trees	Y
Charleston Blvd	1 Tree/30 Linear Feet	0 Trees	7 Trees	Y
East	1 Tree/20 Linear Feet	14 Trees	0 Trees	N*
West	1 Tree/30 Linear Feet	10 Trees	0 Trees	N*
TOTAL		70 Trees	54 Trees	N*
Min. Zone Width				
• North	8 Feet		8 Feet	
• South	15 Feet		15 Feet	Y
• East	8 Feet		0 Feet	Y
• West	8 Feet		0 Feet	N*
• Charleston Blvd.	15 Feet		15 Feet	N*
• East of Driveway	8 Feet		25 Feet	Y
Wall Height	8 Feet Maximum Height		15 Feet	N**

* Waiver requested, see below.

** Subject of this Variance.

Waivers		
Request	Requirement	Staff Recommendation
No perimeter landscape buffer along east property line.	8 foot buffer and 14 trees	Denial.
No perimeter landscape buffer along west property line.	8 foot buffer and 10 trees	Denial.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing to build a wall in excess of the maximum height permitted by Title 19.12. Alternatively constructing a wall of eight feet in height or less would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 2

SENATE DISTRICT 8

NOTICES MAILED 240 by Planning Department

APPROVALS 0

PROTESTS 1